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Before the **DOCKET FILE COPY ORIGINAL**
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)
)
TELEPHONE NUMBER PORTABILITY)

CC Docket No. 95-116

RM 8535

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**REPLY COMMENTS
OF
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

The Personal Communications Industry Association¹ urges the Commission to clarify which Type II number portability costs ILECs may recover from end users, and which such costs they may recover from other carriers through database query charges.

In response to the Commission's request in the *Third Report & Order*,² the ILECs have argued strenuously that certain joint costs that resemble unrecoverable Type III costs be treated as recoverable Type II costs. But the ILECs' arguments cannot be evaluated without understanding what types of costs will be recovered from other carriers and what types will be recovered from the ILECs' own customers. The Commission must decide this issue before analyzing particular costs for two reasons. First, neither consumers nor other carriers have any

¹ The Personal Communications Industry Association ("PCIA") is the international trade association that represents the interests of both commercial and private mobile radio service providers. PCIA's Federation of Councils includes the Paging and Narrowband PCS Alliance; the Broadband PCS Alliance; the Mobile Wireless Communications Alliance; the Site Owners and Managers Association; the Association of Communications Technicians; and the Private System Users Alliance.

² In *Telephone Number Portability*, CC Docket No. 95-116, RM 8535, *Third Report & Order*, at ¶ 75 (May 5, 1998), the Commission asked for comments on how to apportion those carrier-specific costs for products and upgrades that are necessary for number portability but also enhance a carrier's services generally.

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incentive to engage the ILECs on this issue before the FCC, and analyze every cost laid out in the extensive ILEC pleadings, until these consumers and carriers know which group will have to pay what types of costs. Second, it is difficult to analyze the ILECs' purported costs without knowing the ILECs' incentives. The ILECs have an incentive to minimize number portability costs when charging their own customers, and to maximize costs when charging other carriers.

Argument

The ILECs' pleadings set forth a laundry list of costs that these incumbent carriers contend should be treated as recoverable Type II costs, not unrecoverable Type III costs. Until the Commission makes clear how to allocate costs between end users and other carriers, consumer groups will have little incentive to spend money on engineers and lawyers to contest the appropriateness of these costs. Likewise, wireline competitors and wireless carriers also will have little incentive to become fully engaged in the FCC's adversarial process for determining whether the ILECs have made a proper allocation between costs directly related to number portability and costs not directly related to number portability.

Incumbent local exchange carriers have an incentive to minimize costs when their own customers will be paying those costs through an end-user surcharge. But when the costs can be passed on to a wireline competitor or a wireless carrier as part of a database query charge, there is no incentive for ILECs to behave frugally. Indeed, there is an incentive toward profligacy, since database query charges take money from the pockets of CLECs and other carriers and put that money in the pockets of the incumbent LEC. Accordingly, the FCC can make sense of the ILECs' arguments about the apportionment of joint Type II/Type III costs only by first determining how those costs should be apportioned between charges to end-users and charges to other carriers. Otherwise, there is little reason not to believe that ILECs will gold-plate their

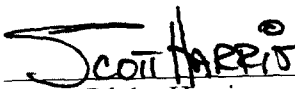
networks knowing that, by abusing their monopoly power, they can foist their number portability costs on other carriers, charging their own customers as little as possible.

Conclusion

The Personal Communications Industry Association urges the Commission to first determine the allocation of costs between end users and other carriers. This approach will prevent the ILECs from gaming the classification of Type II and III costs.

Respectfully submitted,

**PERSONAL COMMUNICATIONS
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CERTIFICATE OF SERVICE

I, Jonathan Mirsky, do hereby certify that a copy of the foregoing Reply Comments of the Personal Communications Industry Association has been sent by first-class mail, postage prepaid, on this 16th day of September, 1998, to the following:

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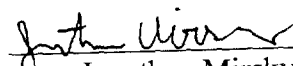
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